761551N25A - SH-AD (11/90)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: March 6, 2003

OFFICE CORRESPONDENCE FILE:

FROM: RICHARD L. CASTRO, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: SAMMY L. JONES, CAPTAIN
LENNOX STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING, MAY 14, 2002, REVIEW #2063089**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on May 14, 2002.

The Committee met on February 27, 2003, and consisted of myself and Commanders David Betkey (Office of Homeland Security) and William McSweeney (Leadership & Training Division). The Committee determined that the use of force by Deputy [REDACTED] [REDACTED] #[REDACTED] was within Department policy. **Please advise the deputy of this finding.**

The Committee additionally directed the Unit Commander tactically debrief the deputies involved in this incident, and recognized and encouraged the Mentor Development Program created by the Unit Commander for Deputy [REDACTED]

RLC:KRK:kk

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SH #2063089

IAB INVESTIGATIVE SUMARY

OFFICER INVOLVED SHOOTING FORM

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MISCELLANEOUS DOCUMENTS

INVESTIGATIVE SUMMARY

TYPE INCIDENT: DEPUTY INVOLVED SHOOTING
IAB FILE: SH 2063089
URN: 402-05209-0380-051

DATE / TIME / LOCATION

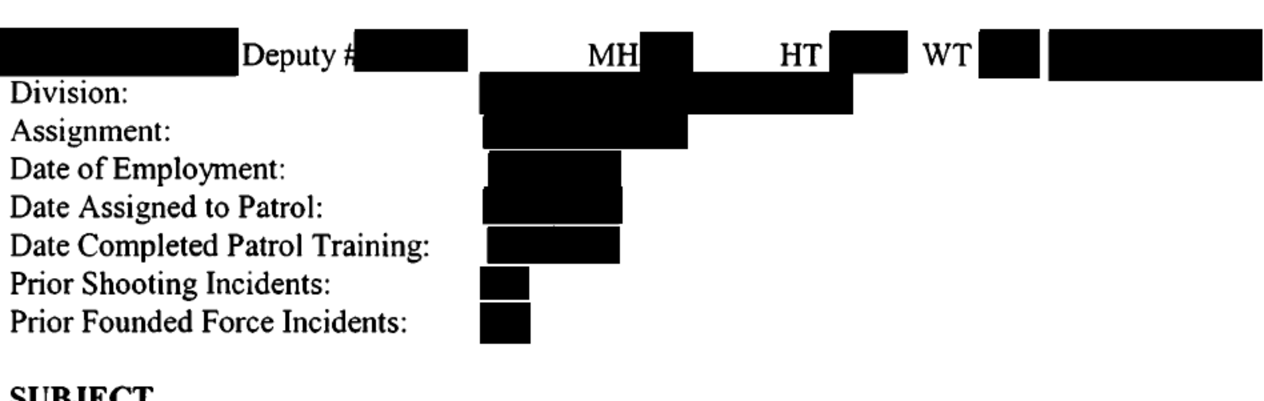
Tuesday, May 14, 2002
0040 hours
Burl Avenue and Lennox Boulevard, Lennox

SYNOPSIS

On May 14, 2002, Deputy and his partner, Deputy Fitzgerald, became involved in a vehicle pursuit. The vehicle they pursued had been spotted driving excessively fast. The pursuit ended shortly after it begun when the suspect vehicle crashed while negotiating a turn. A short foot pursuit ensued. During that pursuit, the suspect turned toward Deputy pointing a gun at him. Deputy fearing for his safety, shot the suspect.

Internal Affairs Sergeants Larry Gregg and Clay Porlier responded along with Lieutenant Donnie Mauldin to conduct an administrative review of the shooting and force used.

INVOLVED PERSONNEL



Deputy # MH HT WT
Division:
Assignment:
Date of Employment:
Date Assigned to Patrol:
Date Completed Patrol Training:
Prior Shooting Incidents:
Prior Founded Force Incidents:

SUBJECT

Celestine, Herbert MB/19 HT 5'08" WT 150 Right Handed

Criminal History:

Suspect Celestine is a member of the "Bloodstone" gang. He was

WITNESSES

SWORN

Fitgerald, Regan, Employee #
Lennox Station

Civilians:

BKG #

Other civilian witnesses to the shooting were located. Most residents in the area heard the vehicle crash and 3-5 gunshots. Some witnesses did look out to see the suspect and a subject being arrested. No other witnesses to the shooting portion of the incident were located. All witnesses are listed on the Officer Involved Shooting Form.

INJURIES

Suspect Celestine suffered two through and through gunshot wounds to his lower extremities.

Subject sustained a 1" laceration to his forehead during the traffic collision.

PHYSICAL EVIDENCE

- (5) expended shell casings, each stamped "Winchester .45 AUTO"
- (3) copper jacketed bullets or bullets
- Handgun, Smith & Wesson, serial # model 10-8, six shot revolver, .38 caliber blue steel, 4 inch barrel (contained six live rounds) (No prints recovered)
- Handgun, Smith &Wesson, serial # Model 38, .38 caliber, 5 shot, silver metal, fully loaded with 5 live bullets. (Gun returned as stolen) (No prints recovered)
- Suspect Celestine and Subject clothing

WEAPONS USED BY DEPUTY PERSONNEL

Deputy [redacted]

Weapon: H&K USP .45 Automatic
Serial #: [redacted]
Rounds fired: 5

WEAPONS USED BY SUSPECT

Suspect Celestine

Weapon: Smith & Wesson, model 10-8, six shot revolver, .38 caliber blue steel, 4 inch barrel (contained six live rounds)
Serial #: [redacted]
Rounds fired: 0

PROPERTY DAMAGE

- Suspect vehicle, 4-door Saturn, License plate # [redacted] (stolen)
- Sheriff's Radio car, SD 1623
- Telephone pole struck by suspect's vehicle

CRIMINAL INVESTIGATOR

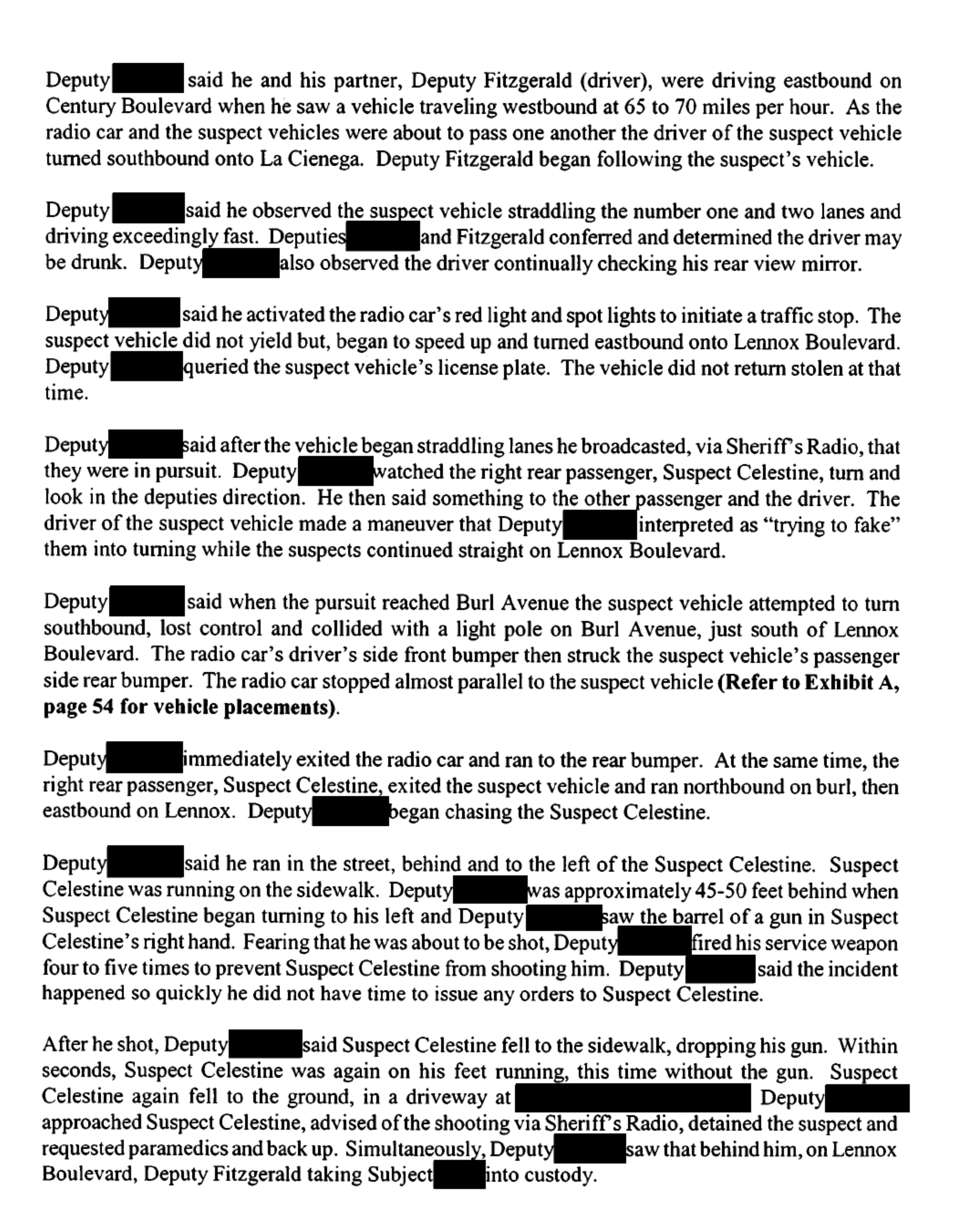
Investigators:	Sergeant R. Ortega and Deputy R. Ramirez
Assignment:	Homicide Bureau
Charges filed:	664/187 PC, 245 (d) (1)PC, 10851 VC
Court:	Torrance Superior Court, Department G
Next Court Date:	12/19/2002

LIGHTING AND WEATHER CONDITIONS

The shooting took place during the hours of darkness, the area is illuminated with standard street lighting.

EMPLOYEE STATEMENTS

Deputy [redacted] was interviewed on May 14, 2002, by Homicide investigators Ramirez and Ortega at Lennox Station. Attorney Mitchell Kander was present to represent Deputy [redacted] The interview was tape recorded.



Deputy said he and his partner, Deputy Fitzgerald (driver), were driving eastbound on Century Boulevard when he saw a vehicle traveling westbound at 65 to 70 miles per hour. As the radio car and the suspect vehicles were about to pass one another the driver of the suspect vehicle turned southbound onto La Cienega. Deputy Fitzgerald began following the suspect's vehicle.

Deputy said he observed the suspect vehicle straddling the number one and two lanes and driving exceedingly fast. Deputies and Fitzgerald conferred and determined the driver may be drunk. Deputy also observed the driver continually checking his rear view mirror.

Deputy said he activated the radio car's red light and spot lights to initiate a traffic stop. The suspect vehicle did not yield but, began to speed up and turned eastbound onto Lennox Boulevard. Deputy queried the suspect vehicle's license plate. The vehicle did not return stolen at that time.

Deputy said after the vehicle began straddling lanes he broadcasted, via Sheriff's Radio, that they were in pursuit. Deputy watched the right rear passenger, Suspect Celestine, turn and look in the deputies direction. He then said something to the other passenger and the driver. The driver of the suspect vehicle made a maneuver that Deputy interpreted as "trying to fake" them into turning while the suspects continued straight on Lennox Boulevard.

Deputy said when the pursuit reached Burl Avenue the suspect vehicle attempted to turn southbound, lost control and collided with a light pole on Burl Avenue, just south of Lennox Boulevard. The radio car's driver's side front bumper then struck the suspect vehicle's passenger side rear bumper. The radio car stopped almost parallel to the suspect vehicle **(Refer to Exhibit A, page 54 for vehicle placements)**.

Deputy immediately exited the radio car and ran to the rear bumper. At the same time, the right rear passenger, Suspect Celestine, exited the suspect vehicle and ran northbound on burl, then eastbound on Lennox. Deputy began chasing the Suspect Celestine.

Deputy said he ran in the street, behind and to the left of the Suspect Celestine. Suspect Celestine was running on the sidewalk. Deputy was approximately 45-50 feet behind when Suspect Celestine began turning to his left and Deputy saw the barrel of a gun in Suspect Celestine's right hand. Fearing that he was about to be shot, Deputy fired his service weapon four to five times to prevent Suspect Celestine from shooting him. Deputy said the incident happened so quickly he did not have time to issue any orders to Suspect Celestine.

After he shot, Deputy said Suspect Celestine fell to the sidewalk, dropping his gun. Within seconds, Suspect Celestine was again on his feet running, this time without the gun. Suspect Celestine again fell to the ground, in a driveway at Deputy approached Suspect Celestine, advised of the shooting via Sheriff's Radio, detained the suspect and requested paramedics and back up. Simultaneously, Deputy saw that behind him, on Lennox Boulevard, Deputy Fitzgerald taking Subject into custody.

Deputy ██████ said Deputy Fitzgerald set up a containment for the third suspect, who was later captured.

SUSPECT STATEMENT

Suspect Herbert Celestine was interviewed by Homicide Investigators Ramirez and Ortega at Lennox Station. Prior to the interview Subject ████ was advised of his constitutional rights and agreed to talk without an attorney present. The interview was tape recorded.

Suspect Celestine said he had gotten into the suspect vehicle because he needed a ride home. He said he knew Subject ████ but did not know Subject ████ Immediately after entering the car he learned it was stolen.

Suspect Celestine said the three were driving through the Lennox area when they began to be followed by a Sheriff's radio car. When the vehicle crashed, he reached under the front seat and retrieved the gun. He did not explain how he knew the gun was there, but put it into his back pocket and ran from the car. He said he ran because he wanted to throw the gun and hide it. Suspect Celestine believed he could get away because of the traffic collision. He said he knew it was wrong for him to run and attempt to discard the gun.

Suspect Celestine said he never took the gun from his pocket; he said the gun fell from his rear pocket as he ran. He said he was running when he heard, "Stop, stop." He was then shot and fell to the ground. He said he panicked and got to his feet and ran again.

Suspect Celestine said he never pointed the gun at the deputy. He said he would fully expect to be shot if he had pointed a gun at the deputy and that is why he did not do it. Suspect Celestine denied ownership of the gun, stating it was in the car when he accepted the ride.

WITNESS STATEMENTS

SWORN

Deputy Fitzgerald was interviewed on May 14, 2002, by Homicide Investigators Ramirez and Ortega and IAB Sergeant Larry Gregg at Lennox Station. Attorney Mitchell Kander was present to represent Deputy ██████ The interview was tape recorded.

Deputy Fitzgerald's statement is substantially the same as Deputy ██████ He added that the driver, Subject ████ knew the radio car was behind him because Deputy Fitzgerald could see ████ constantly checking his rear view mirror and Suspect Celestine continually looked over his shoulder, directly at the radio car.

After the radio car collided with the suspect vehicle and stopped, Deputy Fitzgerald attempted to exit via the driver's side door. This door was jammed, causing Deputy Fitzgerald to climb over the seat and exit via the passenger door.

When he exited the radio car, Deputy Fitzgerald saw Suspect Celestine being chased by Deputy [REDACTED] Deputy Fitzgerald followed Deputy [REDACTED] and was directly behind him. Deputy Fitzgerald saw Suspect Celestine make a movement with his right hand. He did not see a gun but said the movement was consistent with someone retrieving a gun. Deputy Fitzgerald yelled his observation to Deputy [REDACTED] to warn him. Several seconds later, Deputy [REDACTED] fired four to five rounds from his service weapon. Deputy Fitzgerald said he too would have shot the suspect but Deputy [REDACTED] position would not allow him to shoot.

Deputy Fitzgerald saw the gun fall from Suspect Celestine's hand and onto the ground. Deputy Fitzgerald then saw Subject [REDACTED] on the ground in front of him. At the same time, Suspect Celestine got back to his feet and began to run. Deputy [REDACTED] ordered Deputy Fitzgerald to stay with and detain Subject [REDACTED] which he did. Deputy Fitzgerald could hear Deputy [REDACTED] ordering Suspect Celestine onto the ground.

CIVILIAN:

Subject [REDACTED] was interviewed by Homicide Investigators Ramirez and Ortega at Lennox Station. Prior to the interview Subject [REDACTED] was advised of his constitutional rights. The interview was tape recorded.

Subject [REDACTED] admitted he is a member of the "P Stone" Blood gang. He said the suspect and other subject in the car were also Blood gang members.

Subject [REDACTED] said he was picked up by the other two earlier in the evening. While riding around he was told the car was stolen, but not how the car had been taken. Later, he was allowed to drive and was ordered to take the other two to the Lennox area.

While cruising through the Lennox area, Subject [REDACTED] noticed a Sheriff's car behind him. He said he knew it was a police car because of the red light flashing, spot lights and the periodic horn. One of the other two told him not to stop but, he could not remember who. Subject [REDACTED] said he drove around a corner too fast and crashed the car. After the collision, Subject [REDACTED] exited the car and ran for a few feet but quickly laid down on the sidewalk and surrendered.

Subject [REDACTED] said he sustained a laceration and a contusion on his head.

Subject [redacted] was interviewed by Homicide Investigators Ramirez and Ortega at Lennox Station. Prior to the interview Subject [redacted] was advised of his constitutional rights and refused to speak with investigators without an attorney present. The interview was terminated. Suspect [redacted] had been arrested while hiding inside a parked van. A weapon (S&W stainless revolver) was recovered from the backyard of this home.

INVESTIGATOR OBSERVATIONS

While this incident began outside of a Sheriff's patrol area, the area is a common thoroughfare which deputies use to travel from one Lennox area to another. The pursuit, from the point where the deputies spotted the suspect's car, was less than one mile. From the point where the deputies placed themselves into pursuit was approximately 10 seconds prior to the suspect vehicle crashing. Deputy [redacted] did broadcast the necessary information, including the reason for the pursuit.

Los A 'eles County Sheriff's Dep 'ment

Officer Involved Shooting

Report Date: 05/14/2002	Bureau/Station/Facility: FOR II/ Lennox Station	Admin. Invest.? ☐ Hit? ☒

Incident Information

URN: 002-05209-0380-051	Date: 05/14/2002	Time: 0040

City or Station: Lennox

Location: Lennox Avenue at Burl Street, Lennox

Nature of Incident: After a short vehicle pursuit the Suspect's car crashed. All three occupants of the Suspect car exited, running away. While running, Suspect Subject produced a gun and turned toward Deputy who shot him.

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, **Street**, Other: ______

Lighting (*circle only one*): Darkness, Daylight, Other, **Street Lights**

Weather (*circle only one*): **Clear**, Cloudy, Fog, Rain

Distance: 45 feet

Incident Type (*circle one or more*): Accidental, **Armed Person**, **Fleeing Suspect**, **Foot Pursuit**, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, **Traffic Stop**, Unarmed Person, Unintentional, **Vehicle Pursuit**, Warrant Service, Other: ______

Initiated by (*circle only one*): Arrest Warrant, Call, **Observation**, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol**

Total # of Shots Fired by Deputy: 5

Total # of Shots Fired by Suspect: 0

Aero Unit? ☒ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
	Fitzgerald	Regan	P	**EM** PM Day	**Regular** Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.
Street Address:	City:	Zip Code: / Work Ph: / Home Ph:
Street Address:	City:	Zip Code: / Work Ph: / Home Ph:
Street Address:	City:	Zip Code: / Work Ph: / Home Ph:

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
	Vera	Elizer		**On Duty**, Present during shooting, Witness to shooting, Involved in shooting
	Cook	Fred		**On Duty**, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.

Watch Commander

Employee #	Last Name	First Name	M.I.

PSTD Use Only

SH # 2063089

Officer Involved Shooting

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
05/14/2002	0220	12/27/2002	

Employee #	Last Name	First Name	M.I
[redacted]	Gregg	Lawrence	R.
[redacted]	Porlier	Clay	
[redacted]	Mauldin	Donnie	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#!	FH	HK	45	Y	Y	GS	HI

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 002-05209-0380-051

Involved Employee

E 1

Employee # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Sex: M Race: H	Rank DSG	Unit Assignment: [redacted]	Work Assignment (Unit #, Module, etc.): [redacted]
ShiftTime (*circle only one*): [redacted]	ShiftType (*circle only one*): [redacted]	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☒
Hrs of sleep prior to shooting: [redacted]	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **(Uniform w/ Vest)**	Other Factors: [redacted]
Age: [redacted] Height: [redacted] Weight: [redacted]			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting Suspect Information

URN: 002-05209-0380-051

Suspect Information

S 1

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: M Race: Blk	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: 16 D.O.B.	Height: 5'08" Weight: 150	FBI #	CII #
Booking #	Primary Charge: 664/187 PC	Secondary Charge: 245 (d) (1) PC	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☒	Apprehended? ☒	Mental Illness? ☐	Criminal History?
Vehicle Make: Saturn (stolen)		Model: 4 door	Year: 1994

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

SUPPLEMENTAL NON-EMPLOYEE WITNESSES

Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.
Street Address	Zip Code	Work Ph	Home Ph

SUPPLEMENTAL EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Employee Witnesses

Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
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September 5, 2002

Captain Frank Merriman
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Los Angeles, California 90040

Dear Captain Merriman:

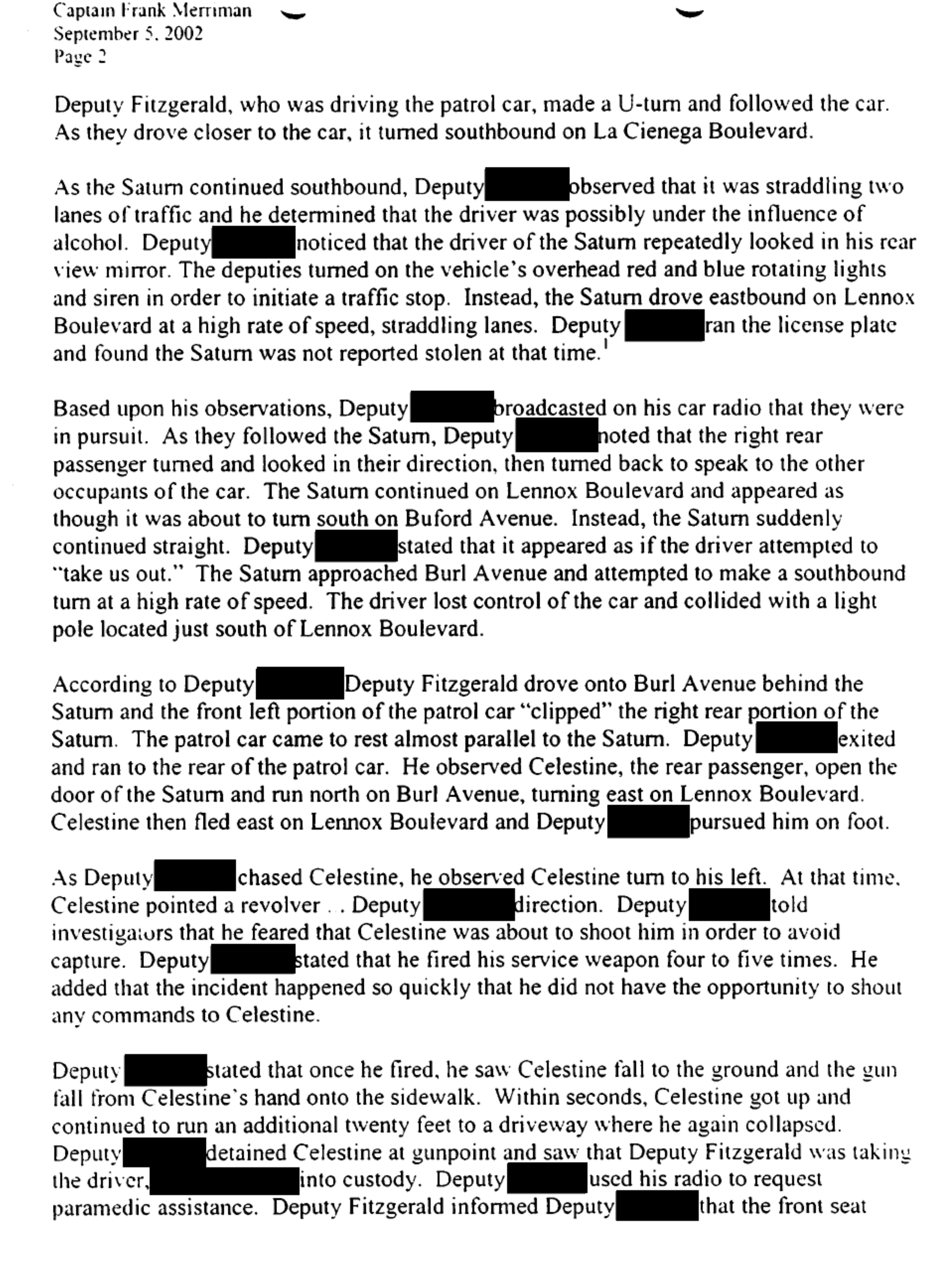
Re: J.S.I.D. File #02-0461
L.A.S.D. File #402-05209-0380-051

The Justice Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 14, 2002 non-fatal shooting of Herbert Celestine by Los Angeles County Sheriff's Deputy [REDACTED] We have concluded that Deputy [REDACTED] acted lawfully in self-defense.

The following analysis is based upon an examination of the 70-page report submitted to this office on July 25, 2002 by Sergeant Rudy Ortega of the Sheriff's Homicide Bureau. The District Attorney's Command Center was notified of the shooting on May 14, 2002 at 1:15 a.m. Deputy District Attorney Linda Reisz and District Attorney Senior Investigator [REDACTED] responded to the location of the shooting and were given a briefing and a walk-through by Lieutenant Marilyn Baker of the Sheriff's Department Homicide Bureau. District Attorney personnel participated in interviews of civilian witnesses on the date of the incident at the shooting scene.

FACTUAL ANALYSIS

On May 14, 2002, at approximately 12:40 a.m., Sheriff's Deputies [REDACTED] and Regan Fitzgerald were on routine patrol traveling eastbound on Century Boulevard approaching Hawthorne Boulevard in their marked patrol car. Their attention was drawn to a maroon Saturn occupied by three men. The Saturn was traveling westbound on Century Boulevard at a high rate of speed, approximately 65 to 70 miles per hour.



Deputy Fitzgerald, who was driving the patrol car, made a U-turn and followed the car. As they drove closer to the car, it turned southbound on La Cienega Boulevard.

As the Saturn continued southbound, Deputy [redacted] observed that it was straddling two lanes of traffic and he determined that the driver was possibly under the influence of alcohol. Deputy [redacted] noticed that the driver of the Saturn repeatedly looked in his rear view mirror. The deputies turned on the vehicle's overhead red and blue rotating lights and siren in order to initiate a traffic stop. Instead, the Saturn drove eastbound on Lennox Boulevard at a high rate of speed, straddling lanes. Deputy [redacted] ran the license plate and found the Saturn was not reported stolen at that time.[1]

Based upon his observations, Deputy [redacted] broadcasted on his car radio that they were in pursuit. As they followed the Saturn, Deputy [redacted] noted that the right rear passenger turned and looked in their direction, then turned back to speak to the other occupants of the car. The Saturn continued on Lennox Boulevard and appeared as though it was about to turn south on Buford Avenue. Instead, the Saturn suddenly continued straight. Deputy [redacted] stated that it appeared as if the driver attempted to "take us out." The Saturn approached Burl Avenue and attempted to make a southbound turn at a high rate of speed. The driver lost control of the car and collided with a light pole located just south of Lennox Boulevard.

According to Deputy [redacted] Deputy Fitzgerald drove onto Burl Avenue behind the Saturn and the front left portion of the patrol car "clipped" the right rear portion of the Saturn. The patrol car came to rest almost parallel to the Saturn. Deputy [redacted] exited and ran to the rear of the patrol car. He observed Celestine, the rear passenger, open the door of the Saturn and run north on Burl Avenue, turning east on Lennox Boulevard. Celestine then fled east on Lennox Boulevard and Deputy [redacted] pursued him on foot.

As Deputy [redacted] chased Celestine, he observed Celestine turn to his left. At that time, Celestine pointed a revolver . . Deputy [redacted] direction. Deputy [redacted] told investigators that he feared that Celestine was about to shoot him in order to avoid capture. Deputy [redacted] stated that he fired his service weapon four to five times. He added that the incident happened so quickly that he did not have the opportunity to shout any commands to Celestine.

Deputy [redacted] stated that once he fired, he saw Celestine fall to the ground and the gun fall from Celestine's hand onto the sidewalk. Within seconds, Celestine got up and continued to run an additional twenty feet to a driveway where he again collapsed. Deputy [redacted] detained Celestine at gunpoint and saw that Deputy Fitzgerald was taking the driver, [redacted] into custody. Deputy [redacted] used his radio to request paramedic assistance. Deputy Fitzgerald informed Deputy [redacted] that the front seat

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[1] In fact, the Saturn had been stolen on May 13, 2002, after its owner parked and locked her car for the evening in the mid-city area of Los Angeles. She did not realize that the car was missing until she received a telephone call from deputies involved in this investigation.

passenger, had escaped. Celestine was transported to Martin Luther King Hospital for medical treatment.

Deputy Fitzgerald stated to Sheriff's Investigators that he was driving the patrol car when he observed three men in a Saturn travelling at a high rate of speed westbound on Century Boulevard. He followed the Saturn in order to initiate a traffic stop for speeding. The Saturn continued on La Cienega Boulevard at a slower speed, but began swerving from one lane to another. Deputy Fitzgerald stated that he turned on the overhead lights, but that the Saturn failed to stop. Deputy Fitzgerald believed that the driver was aware of their presence because he repeatedly looked in his rear view mirror. He also observed the rear passenger look in their direction, then turn back and speak to the other occupants. Deputy Fitzgerald followed the three men eastbound on Lennox Boulevard and honked his horn several times trying to get them to stop. Instead, the Saturn accelerated. Deputy Fitzgerald notified LASD communications that they were in pursuit of a "drunk" driver.

According to Deputy Fitzgerald, the Saturn appeared about to turn southbound on Buford Avenue. Instead, it continued eastbound on Lennox Boulevard at approximately 55 miles per hour. The Saturn braked suddenly and turned southbound on Burl Avenue, where it crashed into a light pole located on the east sidewalk. When the Saturn came to a sudden stop, the left front bumper of the patrol car struck the right rear portion of the Saturn.

Deputy Fitzgerald observed the front seat passenger, run from the vehicle and disappear from sight. When Deputy Fitzgerald attempted to open his car door, it initially jammed. When he was able to force it open, he ran to the rear of the patrol car and saw Deputy chase Celestine eastbound on Lennox Boulevard. Deputy Fitzgerald saw Celestine make a movement with his right hand toward his waistband or pants pocket. Believing that Celestine was about to retrieve a weapon, Deputy Fitzgerald yelled to Deputy to alert him to Celestine's actions.

Deputy Fitzgerald stated that if he had not been behind Deputy he would have fired at Celestine. However, because Deputy would have been hit, Deputy Fitzgerald decided not to fire his gun. He observed Deputy fire four or five rounds at Celestine, who fell to the ground and dropped his gun.

Deputy Fitzgerald was startled when he suddenly realized that was on the ground in front of him. He then saw Celestine "bounce back up" and run. He heard Deputy yell at Celestine to "get down, get down." Deputy Fitzgerald handcuffed when another patrol unit arrived. He then helped Deputy hold Celestine at gunpoint until additional assistance arrived. They handcuffed Celestine at that time.

Deputies conducted a search of the area for the third occupant of the car. He was found hiding in a van parked in the driveway of a residence on Buford Avenue, located one block from the shooting scene. was lying on the floor of the van with several items pulled over his body. On May 17, 2002, the owner of the Buford Avenue residence called investigators and told them that he had found a handgun in his backyard.

Investigators recovered a Smith and Wesson .38 caliber revolver, Model 38, fully loaded with five live bullets. The handgun had been reported stolen one year earlier.

Investigators, along with District Attorney personnel, canvassed the area of the shooting scene in an attempt to locate witnesses. Although investigators spoke to nineteen witnesses, none of them reported witnessing the shooting. Several stated that they were awakened by several gunshots. When they looked out of the windows of their residences, they saw Celestine laying on the ground and the Sheriff's deputies standing with weapons in their hands.

Investigators interviewed Celestine at Martin Luther King Hospital. After waiving his Miranda rights, Celestine stated that he is a P Stone Blood gang member. He said that he knew from juvenile hall, but did not know well. He admitted knowing the Saturn was stolen. and picked him up earlier in the evening. was driving the Saturn. They drove in the Lennox area to visit a female friend and the police began to follow them. Celestine stated that he ran from the vehicle because he knew it was stolen and he did not want to go to jail. He told investigators that he took the gun with him because he "did not want anybody to get caught with it." Celestine maintained that the gun was not his, and that it was already in the vehicle when he got in. He stated that he retrieved the gun from under the front seat and placed it in his back pocket, intending to "throw it and get rid of it." Celestine denied pulling the gun out of his pocket, instead stating that the gun fell out of his pocket. As he was running, he heard someone yell, "stop, stop," was shot and then fell to the ground. Celestine stated that he did not point the gun at the deputy and that he was shot from behind.

Celestine was transported to Martin Luther King Hospital for treatment. The emergency room physician who treated Celestine advised investigators that Celestine had sustained two through and through gunshot wounds to his lower extremities.

Investigators interviewed after he was advised of his constitutional rights and agreed to speak to them without an attorney present. He stated that he is a member of the P Stone Blood street gang. The other occupants of the car were also members from the same gang. admitted knowing the vehicle he was driving was stolen. He stated that Celestine and picked him up and asked if he wanted to go for a ride. While driving around, was informed that the Saturn was stolen. At one point, he was allowed to drive and was told to drive to the Lennox area, although he did not know why they were driving there. stated that he was unaware that anyone was armed with a gun. While driving he observed that the police were following them. He was told to turn down the street and try evading the police. He negotiated the turn too fast, which resulted in the traffic collision. stated that he ran from the Saturn, but then lay down on the sidewalk and surrendered. When he was on the ground, he observed the deputy shoot his weapon. could provide no further details of the shooting.

Investigators attempted to interview refused to speak to them without an attorney present.

When Sheriff's investigators arrived at the scene of the shooting, they found the Saturn resting against the telephone pole. The damage to the Saturn was consistent with a head-on collision with the pole. The Saturn had major front-end damage to the front bumper, hood, left front fender, left front wheel, right car fender and bumper. The ignition switch of the Saturn was intact, but the center console had no car stereo and electrical wiring was protruding from the console. It appeared as if the pursuing Sheriff's patrol car had collided with the right rear portion of the Saturn. A Smith and Wesson .38 Special revolver was recovered from the parkway located between the sidewalk and the street just [redacted] of a residence at the corner of Burl Avenue and Lennox Boulevard. It was found close to where Celestine was taken into custody. The revolver was loaded with six live rounds of ammunition. The serial number and all identifying markings had been removed. At a later time, crime lab personnel were able to raise the serial number of the handgun.

Additionally, five expended shell casings with rim head stamps of "Winchester 45 AUTO" were recovered from the south sidewalk and street of Lennox Boulevard, just [redacted] of the residence located at the corner of Burl Avenue and Lennox Boulevard. These shell casings were ballistically matched to Deputy [redacted] Heckler and Koch .45 caliber semiautomatic pistol.

Sheriff's investigators examined the weapon used by Deputy [redacted] Deputy [redacted] fired a .45 caliber Heckler and Koch semi-automatic handgun. Deputy [redacted] stated to investigators that while on duty he carries twelve rounds in the magazine and one round in the chamber. Investigators counted the rounds in Deputy [redacted] service weapon and found seven live rounds in the magazine and one in the chamber.

Investigators submitted the two Smith and Wesson revolvers, as well as the ammunition each contained, to be processed for fingerprints. No latent fingerprints were developed from any of the items submitted.

As a result of this incident, the District Attorneys' Office charged Celestine with attempted murder of a peace officer, assault with a firearm upon a peace officer, unlawful taking of a vehicle, and carrying a loaded, unregistered firearm. The case was filed on April 15, 2002, and is set for preliminary hearing on September 24, 2002.[2]

CONCLUSION

According to the law in California, the use of deadly force in self- defense of others is justifiable if the person claiming the right to use self-defense actually and reasonable believed (1) that he or she, or the person he or she was defending was in imminent danger of death of great bodily injury, and (2) that it was necessary under the circumstances to use deadly force to avoid such imminent death or great bodily injury.

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[2] Los Angeles Superior Court Case YA051876.

The evidence gathered in this investigation shows that Herbert Celestine, while armed with a stolen, fully loaded handgun, became involved in a dangerous high-speed pursuit with Sheriff's deputies. The pursuit ended in a violent collision. At that point, Celestine had two choices to make. One was to surrender peacefully, face arrest and certain prosecution. The second choice, the one he elected, was to attempt to escape. He was shot during that attempt.

Accounts differ as to the circumstances immediately preceding the shooting of Celestine by Deputy [REDACTED] Deputy [REDACTED] told investigators that Celestine, while fleeing, began to turn toward him. Celestine was holding a handgun in his right hand with the barrel of the weapon pointed in his [REDACTED] direction. Deputy Fitzgerald corroborates [REDACTED] version of the events in that, while he did not see the handgun, he saw Celestine move his right hand toward the area of his waistband. This sufficiently alarmed Fitzgerald that he yelled a warning to Deputy [REDACTED] While Celestine denies pointing the stolen gun at Deputy [REDACTED] there is no evidence to corroborate his version of the events. His credibility is compromised, not only by the events preceding the detention, flight and shooting, but also by a strong motive to fabricate his story to avoid prosecution and incarceration.

Given the rapidly evolving, immediately life-threatening circumstances surrounding this incident, it is the conclusion of this office that Deputy [REDACTED] acted lawfully in self-defense. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By *Linda Reisz*

LINDA REISZ
Deputy District Attorney
(213) 974-9905

c: Deputy [REDACTED] Serial No. [REDACTED]